IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1121 of 2006
With
CIVIL APPLICATION No. 917 of 2006
In SPECIAL CIVIL APPLICATION No. 1121 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ANJANABEN AMRATLAL ACHARYA - Petitioner(s)
Versus
OFFICIAL LIQUIDATOR & 1 - Respondent(s)

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Appearance :
MR PRAKASH K JANI for Petitioner(s) : 1,
MR SIRAJ GORI AGP for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 28/06/2006

ORAL JUDGMENT

1. Rule. Learned AGP Shri Gori wavies service of rule on behalf of respondent no.1. In all subsequent

developments, learned advocate Shri Jani for the petitioner submits that the presence of respondent no.2 is not necessary. He is, therefore, permitted to delete respondent no.2.

2. Learned advocate Shri Jani for the petitioner submitted that after filing of the petition, the petitioner has vacated the quarter alloted to her husband while he was in service of the Co-operative Society and in fact the entire property has been auctioned to realise the funds for payment to the creditors of the Society. He further submitted that the husband of the petitioner who had till his death on 24th December, 2001 had discharged his duties with the Co-operative Society, was not paid salary for number of years. He however submitted that the Official Liquidator has released the unpaid salary recently. The only grievance of the petitioner that survives in the petition is with respect to the payment of interest on the unpaid salary. He submitted that by disposing of the property of the Co-operative Society the liquidator has been able to collect sufficient funds to pay up the dues of the creditors and in appropriate cases also grant the request for interest.

3. Learned AGP Shri Gori under the instructions of Official Liquidator Shri Mori who is present in the Court submitted that at the relevant time the Society was going through acute financial crises due to which the employees were not paid regular salaries.

However upon realisation of the funds the liquidator has released the unpaid salary of the husband of the petitioner. He does ot dispute that other creditors of the society have been repaid their dues.

4. Considering the above factual situation, it would appear that the amount of unpaid salary of the deceased husband of the petitioner should carry suitable interest. It is not in dispute that the husband of the petitioner expired in 2001 and the unpaid salary is released only sometime in May or June, 2006. The prayer of the petitioner for interest on the delayed payment is, therefore, justified.

5. Under the circumstances, it is directed that the unpaid salary of the husband of the petitioner shall carry simple interest of 10% from the date of death of the husband of the petitioner till the actual payment of the salary. Such amount shall be released by the respondent within a period of four weeks from the date of receipt of a copy of this order. With these directions, the petition is disposed of. Rule made absolute. No costs.

6. In view of the order passed in the main matter Civil Application does not survive same is disposed of accordingly.

(Akil Kureshi, J.)

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